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CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2000/31

Addendum

Mission to Nepal

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Introduction

1. At the invitation of the Government, the Special Rapporteur conducted a mission to the Kingdom of Nepal from 5 to 14 February 2000. The visit was mainly prompted by continuing reports of alleged extrajudicial killings of unarmed civilians in the context of the confrontation between armed groups of the Communist Party of Nepal CPN (Maoist) and the Nepalese police. Concerns had also been expressed that the current situation could potentially deteriorate, resulting in more violence and loss of life.

2. The Special Rapporteur wishes to thank the Government of Nepal for its cooperation and assistance during the visit. While in Nepal, the Special Rapporteur was able to freely conduct her mission and collect information related to her mandate from a variety of sources without any form of impediment. She further wishes to express her appreciation for the assistance rendered by the numerous private individuals and non-governmental organizations she had the opportunity to meet during her visit to Nepal. She would like to thank the President of the Nepali Congress Party for his assistance in facilitating the visit. The Special Rapporteur is also grateful for the logistical, administrative and other support she received from the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) in Nepal.

I. PROGRAMME OF THE VISIT

3. During her visit the Special Rapporteur held discussions with the following officials and government representatives in Kathmandu: the Minister for Foreign Affairs, the Home Minister, the Minister of Law and Justice, the Attorney General and the Inspector General of the Police. Meetings were also held with the leadership of the Nepali Congress Party, the Nepal Communist Party (ML), the Nepal Communist Party (UML) the National Democratic Party and the United People's Front. The Special Rapporteur further had the opportunity to have discussions with a number of private individuals, including lawyers, journalists and former politicians active in the protection and promotion of human rights in Nepal. In Kathmandu she visited the Supreme Court Bar Association, where she was briefed about issues pertaining to the functioning of the judiciary.

4. In the capital she met with representatives of a large number of non-governmental organizations, including the Informal Sector Service Centre (INSEC), the Centre for Victims of Torture (CVICT), the Human Rights and Peace Society (HURPES), People Rights Concern Movement, INHURED International, Forum for Women, Law and Development, the Beyond Beijing Committee, the Forum for the Protection of Human Rights, the Human Rights Organization of Nepal (HURON), the Himalayan Human Rights Monitors (HimRight), the South Asia Forum for Human Rights and the Amnesty International Nepal Section. The programme further included a visit to the Central Hospital in Kathmandu. While in Nepal, the Special Rapporteur also had the opportunity to meet with officials of the UNDP, UNICEF and the International Committee of the Red Cross (ICRC), as well as representatives of diplomatic missions in Kathmandu. In the capital she also met with the Secretary-General of the South Asian Association for Regional Cooperation (SAARC). At the end of her visit the Special Rapporteur held a press conference in Kathmandu.

5. From 6 to 7 February, the Special Rapporteur travelled to the town of Gorkha, where she met with the Chief District Officer, the Chief of Police, a representative of the municipal court and the Mayor. In Gorkha she also held discussions with representatives of the non-governmental organizations INSEC and CVICT. She further visited the Gorkha prison, where she spoke with a number of inmates held in preventive detention. In Gorkha the Special Rapporteur also visited the local hospital, where she had the opportunity to talk with the chief surgeon and inspect the facilities for performing post mortems.

6. From 9 to 10 February, the Special Rapporteur visited the town of Nepalgunj, where she met with the Chief District Officer, the Chief of Police, and representatives of the Appeals Court. In Nepalgunj she also visited the local prison, where she held discussions with a group of inmates, most of whom were being held in preventive detention. The Special Rapporteur also went to the hospital in Nepalgunj and interviewed three persons who were being treated for gunshot wounds sustained during a police operation in the village of Dungal, Achham district. While in Nepalgunj the Special Rapporteur further held extensive consultations with a number of non-governmental organizations engaged in human rights and humanitarian work in the region. The Special Rapporteur regrets that she was not able to visit some of the areas most affected by recent violence, particularly the districts of Rukum and Rolpa, as the security situation in those locations would not have allowed her to carry out her work under adequate conditions, especially as regards freedom of movement and confidentiality of witnesses.

II. GENERAL OBSERVATIONS

7. Nepal is a party to all major international human rights instruments, including the International Covenant on Civil and Political Rights and its two Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women. Nepal became a party to these instruments after 1990, when multi-party democracy was restored.

8. Nepal has a long history of political struggle against totalitarian or autocratic rule. The oppressive system of the past presents a major challenge to the Government in trying to build a society based on democratic principles, rule of law and respect for human rights and freedoms. Although progress has been made in the post-transition period, the achievements so far do not seem to have met the expectations of the people.

9. Nepal has been a kingdom for the last 1,500 years. The role of the monarchy in the country's political life has varied greatly over time, from being absolute rulers to today's largely ceremonial role under the constitutional monarchy introduced under the 1990 Constitution. The Rana regime, which held absolute power from 1846 to 1951, marginalizing the role of the monarchy, was an era characterized by autocratic rule, corruption and repression. The rule of the Ranas came to an end following a revolt which led the country into a 10-year transitional period with an elected parliament. In 1960 King Mahendra Bir Bikram Shah Dev intervened, and introduced the so-called Panchayat, or "non-party" system. By the mid-1970s political discontent was gaining strength, and groups of citizens, especially students and workers, began to organize against the Panchyat regime. A referendum was held on the controversial Panchyat system and it is widely reported that the results of the consultation were rigged in

favour of the regime. In 1989, political parties led a movement to restore democracy, which eventually forced the King to abolish Panchyat rule, and multi-party democracy was restored in 1990.

10. The human rights record of Nepal's previous rulers is dismal. Political dissent and opposition were routinely and continuously repressed, and at times crushed by brutal force. Human rights abuses, including torture and extrajudicial executions, were frequent, widespread, and carried out with impunity. Under emergency powers, the district officers representing the monarch could summarily execute "lawless individuals" if they were arrested in regions regarded as rebellious. Many of today's politicians, including members of the Government, spent decades struggling against the undemocratic rule and repression of the Panchayat regime. Some of them were also detained for years as political prisoners. The enactment of the new Constitution in 1990 and the introduction of multi-party democracy the same year were important milestones on the country's path towards democracy. It is, nevertheless, clear that many of the challenges facing Nepal in the sphere of human rights stem from difficulties in bringing existing legal provisions and administrative procedures into line with the human rights standards contained in the Constitution.

11. The repression and political culture of the Panchayat era has left its mark on the State institutions, including the State administration and the still fragile judiciary. Political instability and short-lived Governments have further contributed to the lack of political focus and decisive action. Government officials and representatives of civil society whom the Special Rapporteur spoke with in Nepal agreed that this legacy is one of the most serious obstacles in the country's path towards genuine rule of law and democracy. Nepal's recent shift to democracy has also given rise to mounting expectations for rapid development in all spheres of public life. The fact that many of the human rights violations committed during the Panchayat era have gone unpunished has further added to the frustration and disillusionment among the public over the slow pace of reform. These challenges, coupled with the emergence of an armed conflict, have clearly not provided a favourable environment for the country's process of development and its quest for sound governance.

12. The far-left political groups have a history of activism in the country's struggle for democracy. At times they have turned to violence, inspired by similar movements in neighbouring countries. During the Movement for the Restoration of Democracy (Jhapa Movement, 1989-1990), they joined forces with other political groups in their demand for political changes. Seven parties of the political left formed the United People's Front (ULF) and participated in the discussions over the drafting of a new constitution. Differences over establishing a monarchy rather than a republic led to further divisions in the ULF, but the movement did participate in the parliamentary elections in May 1991. In 1994 another split eventually led to the formation of the CPN (Maoist) in February 1995. By this time, political tensions in Rolpa, a stronghold of the Maoist movement, had flared up between the Maoists and the ruling Congress party. In November 1995, responding to this unrest, the Government launched the so-called "Operation Romeo", which reportedly drove some 10,000 men into hiding in the jungle.

13. The CPN (Maoist) presented a 40-point list of demands to the Prime Minister. These included a reassessment of Nepalese-Indian relations concerning mainly water treaties, trade and

open borders. Other political demands included abolition of royal privileges, release of political prisoners, ending oppression and efforts for the empowerment of women. They also called for economic rights for women, peasants and the homeless. The Government was given an ultimatum to respond to the 40 demands by 17 February 1996, failing which a "people's war" would be declared. On 13 February 1996 the "people's war" was declared. Armed members of the CPN (Maoist) attacked police posts and local administrative offices in eight incidents in five districts. It is reported that these attacks continued, spreading to banks, offices of political parties and local offices of international humanitarian organizations. In March 1996, the former Prime Minister, Sher Bahadur Deuba, tried to address the situation by calling an all-party meeting and formed a committee to hold talks with the CPN (Maoist). Not much headway was made at that stage.

14. The emergence of the militant Maoist movement needs to be considered against the background of Nepal's present economic, social and political situation. Nepal is one of the poorest countries in the world. The social and economic inequalities between sexes, classes, castes and regions are significant. Both the caste system and the practice of bonded labour have been abolished by national law, but these serious human rights problems still persist and continue to dominate social, economic and political life, particularly in the rural areas. A number of initiatives, supported by foreign donors and aid agencies, have been launched in recent years to gradually do away with the most extreme discrepancies in land ownership and economic wealth. While these efforts have generated some pockets of economic development, the programmes launched so far appear to have been less successful in finding ways of strengthening key public institutions, particularly the justice system, and in empowering people to take charge of their own lives. It is clear that the process of development has also been frustrated and stalled by the armed activities of the CPN (Maoist), as the Government has had to devote its attention and scarce resources to combat this movement. Grievances resulting from continuing social injustices, lack of opportunities and repression of the landless and poor have persisted and grown, thereby fuelling the social discontent upon which the CPN (Maoist) strives to build its support. Indeed, the regions considered to be traditional Maoist strongholds - Rukum, Rolpa and Jajarkot - rank among the least developed in Nepal. While the Maoist movement was mainly concentrated in three districts in 1996, it is today reportedly active in 45 of Nepal's 75 districts.

15. In early December 1999, the Home Minister announced an "integrated security plan" as a response to the armed activities of the CPN (Maoist). It aimed at addressing the political, developmental and security aspects of the situation. At the political level, a high-level committee was appointed, chaired by the former Prime Minister, to hold consultations with all political parties and make recommendations to the Government. The Committee was also mandated to initiate a dialogue with the CPN (Maoist). At the time of writing, the CPN (Maoist) had given indications that it might be ready for a dialogue with the Government. Another initiative is the so-called Ganesh Man Singh Peace Campaign, through which the Government aims to rehabilitate former Maoist activists and to provide compensation to victims of violence by the CPN (Maoist). The Government's initiative also provides for local security committees, which are to alert the police to possible threats of violence and armed attacks. It appears that the implementation and follow-through of this programme vary greatly from municipality to municipality. In discussions with officials, the Special Rapporteur was told that such committees had been set up in a number of municipalities, but it seems that the authorities had not been able

to sustain the initial momentum of the programme and that the Ganesh Man Singh Peace Campaign has not been able to convince many Maoists to abandon their armed struggle.

16. While in Kathmandu, the Special Rapporteur had the opportunity to meet with a range of officials and discuss the Government's approach to resolving the situation. She was encouraged by the willingness expressed by government representatives to work constructively towards a political solution to the present problems. She also notes with appreciation that the Home Minister expressed his reluctance to engage the armed forces in operations against CPN (Maoist) groups, as he feared that this could lead to further human rights abuses. In this context, the Special Rapporteur wishes to note that the Government was dissolved shortly after her visit and replaced with a new Cabinet, also led by the Nepali Congress Party. Thus, many of the government representatives the Special Rapporteur met with during her mission are no longer in office. However, in discussions with the leadership of the governing party, she was encouraged to note that the party leaders expressed their growing frustration with the present situation and reiterated their resolve to find a political solution to the problems.

III. THE RIGHT TO LIFE: FINDINGS AND CONCERNS

17. The observations and conclusions presented in this report are largely based on information gathered during the Special Rapporteur's mission. The majority of the allegations of violations of the right to life brought to her attention relate to incidents occurring in the context of the conflict between the Nepal police and CPN (Maoist) militants. A number of cases with no apparent connection with this conflict, in which persons had allegedly disappeared in police custody and were feared dead, were also communicated to the Special Rapporteur, indicating that the problem of extrajudicial killings is not limited exclusively to areas affected by internal unrest. Since the beginning of the armed activities of the CPN (Maoist) in 1996, the conflict has claimed a heavy toll of victims, and the civilian population has suffered abuses and violence from both sides. Since 1996, a total of more than 1,100 people, including civilians and police, have lost their lives as a result of this confrontation. The number of casualties has risen over time, and more than 600 persons were reportedly killed in 1999 alone.

A. Violations of the right to life attributed to the police

18. The data received from the Government does not acknowledge any non-Maoist civilian casualties resulting from police actions. All persons killed or wounded by the police are listed as members of the CPN (Maoist), and all casualties are reported as having occurred in encounters between the police and armed members of the CPN (Maoist). According to data provided by the Government, 126 police and 182 civilians have been killed by the CPN (Maoist) since the violence began in 1996. According to the same source more than 800 people, described as armed CPN (Maoist) members, have been killed in encounters with the police. Data from non-governmental sources largely support the figures given by the Government. However, according to non-governmental organizations those killed by the police include a large number of unarmed civilians. Indeed, the Special Rapporteur had the opportunity to personally interview eyewitnesses to incidents in which the police were said to have deliberately shot and killed persons who were neither armed nor activists of the CPN (Maoist). Before going to Nepal,

on 28 January 2000 the Special Rapporteur sent a letter to the Government containing a list of more than 100 persons allegedly killed by the police. At the time of writing, the Special Rapporteur is still awaiting the Government's response to her communication.

19. According to sources close to the CPN (Maoist) the police have on repeated occasions carried out extrajudicial executions in connection with their operations against the so-called "people's war". Police units are alleged to have attacked gatherings and meetings by unarmed sympathizers of the party, including a number of minors. The police are further alleged to have summarily executed captured Maoist fighters. A number of civilians, with no apparent link to the CPN (Maoist), have also reportedly been killed in unclear circumstances in connection with clashes between the police and armed CPN militants.

20. Allegations and testimonies received from non-governmental organizations, witnesses and family members of victims also describe situations in which police units have allegedly used excessive and indiscriminate force against unarmed civilians. A woman living in a village close to Gorkha told the Special Rapporteur how her husband had been on his way to feed his cattle, when the police surrounded the house. The husband went out to ask the police what was going on, and when he appeared at the front door the police allegedly opened fire and killed him. The widow said that the case had not been investigated and that she had received no compensation from the authorities for the loss of her husband. The Special Rapporteur heard many similar testimonies.

21. Incidents of deliberate extrajudicial executions of unarmed civilians by police officers have also been reported. In Nepalgunj the Special Rapporteur spoke to the widow of a prominent local politician of the United National Front. In June 1998, the police reportedly went to the family's house to take the husband to the police station, as the Chief District Officer wanted to have a word with him. However, the man never appeared at the police station. Three days after her husband was taken away, the wife was told that his body was at the hospital morgue. Apparently, the man had been found dead in the jungle. Some two months after the incident, the wife was reportedly arrested and held in custody for four months. She said that while in detention she was tortured and interrogated by the police about her and her husband's political leanings. The Special Rapporteur is not aware of any official investigations into this case.

22. Most of the incidents of alleged extrajudicial execution attributed to the police are reported to have occurred in locations which are remote and underdeveloped. It is often difficult to reach these areas due to the rugged and mountainous terrain. It is further reported that in these areas the police often dispose of the bodies by burning them on the spot, thus making any post mortem or other forensic examination virtually impossible. It would further appear that the bodies are seldom properly identified before the burial. Allegations of extrajudicial executions by the police are therefore extremely hard to investigate and verify. At the same time, there is no evidence to suggest that the authorities have made any serious attempts to make the police accountable for suspected extrajudicial killings in any part of Nepal.

23. In discussions with the Special Rapporteur, local police commanders and government representatives explained that it was virtually impossible for the police to recover the bodies of persons killed in so-called encounters and transport them to hospital morgues for proper post

mortem examinations. Because of the difficult terrain, the police are usually obliged to patrol these remote areas on foot and in most cases the nearest hospital is several days away from the scenes of the incidents. The bodies of the persons killed in encounters with the police are therefore understandably often burned, in accordance with the Hindu religious custom, and buried on the spot. A proper investigation in such cases is therefore virtually impossible.

24. It is worth noting that none of the provincial or local hospital morgues is equipped with any form of cold-storage facilities. The only such installation is at the Kathmandu Medical School. During her visit to Gorkha, the Special Rapporteur had the opportunity to inspect the post mortem facilities at the local hospital. She was shown a small house, separate from the rest of the hospital, with one room measuring about 4 metres by 3 metres. The autopsies were performed on a concrete bunk. The building had no running water, and as the hospital apparently had no crematorium, used bandages and other residues from autopsies were burnt outside the building on the ground. The Special Rapporteur was also told, both in Gorkha and at the Central Hospital in Kathmandu, that autopsies were as a rule not carried out by the pathologists or medical professionals themselves, but by peons (office attendants) or cleaners who would perform the dissection under the supervision of a physician. As the hospitals are not equipped with cold-storage facilities, it is doubtful whether the physicians are afforded sufficient time to perform thorough examinations of the deceased.

25. In this connection, the Special Rapporteur wishes to draw attention to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65), and in particular paragraphs 12 and 13, which include important provisions as regards the conduct of autopsies. These provisions stipulate, inter alia, that the body of the deceased shall not be disposed of until an adequate autopsy is conducted by a physician, who shall, if possible, be an expert in forensic pathology. Those conducting the autopsy shall have the right of access to all investigative data, to the place the body was discovered, and to the place where the death is thought to have occurred. Article 13 further provides that, "the body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out". The Principles also give more detailed recommendations as regards the technical aspects of post mortem examinations. It is clear that the facilities and resources presently available to the Nepalese authorities are not sufficient to allow for autopsies that meet these standards.

Dungal village, 15 January 2000

26. According to information received from government representatives, on 14 January 2000, a police patrol entered the village of Dungal, Dankhu VDC (Village Development Committee), in Achham district, in order to apprehend an armed CPN (Maoist) group. The Maoists were reported to have moved around the area, allegedly forcing villagers to attend political and cultural manifestations. While the police were surrounding the village the armed Maoists retreated and left the village while exchanging fire with the police. Nine persons - seven villagers and two members of the CPN (Maoist) - were killed in the incident. According to government officials all seven villagers were killed when the retreating Maoists detonated bombs and hand grenades in the village.

27. Information gathered by non-governmental organizations indicate that on 13 January 2000, three armed Maoists entered the Dhanku VDC and ordered the villagers to provide food and shelter to 50-60 members of their group, who were to perform a cultural programme as part of their political campaign. The following day the villagers were ordered to attend the programme which was set up in the local school. A considerable number of women and children from the village were among the audience, but many of them left towards the end of the manifestation before the shooting started.

28. The police were reportedly alerted at around 5 p.m. A patrol of 14 police officers under the command of an Inspector were on their way to the school building when one of the Maoists who was keeping watch fired a warning shot in the air. Following the warning, all but two of the Maoists managed to flee the scene. As the first shots rang out, the villagers ran out of the school building and took cover in nearby houses and tea shops. Reports indicate that the police opened fire indiscriminately and without warning. At least two persons who were in a tea shop were allegedly killed when police officers fired their guns at point-blank range through the shop window. Other villagers were reportedly shot while running for cover. Seven villagers were killed in the assault. Two unarmed Maoists who had not managed to escape were reportedly taken into custody by the police. It is alleged that both of them were summarily executed by the police some 8-10 hours later. It is further reported that the police found a hand grenade left behind by the Maoists, which they detonated the following day as a cover-up of their operation. Two minors were reportedly among those killed: Madan Kumar Chalaune and Padam Dholi. They were both 16 years of age.

29. During her visit to Nepalgunj, the Special Rapporteur had the opportunity to interview eyewitnesses to the events in Dungal village. Three of these persons were recovering from gunshot wounds sustained during the incident. The testimonies heard by the Special Rapporteur largely corroborate the account given by non-governmental sources. In the afternoon of 14 January, some 60 persons were gathered in the village school, where they had been ordered to attend a cultural programme organized by the CPN (Maoist). By the time the police arrived to the village, the women and children had already left the school as it was getting late. Before the shooting started, many of the villagers ran out trying to take shelter in nearby houses and shops. When the Maoists keeping watch fired the warning shot, all the Maoists, except two, fled. The testimonies indicate that the police when launching their assault fired their rifles indiscriminately at the houses and shops where civilians where taking shelter. Some villagers were reportedly shot dead while trying to run for cover. One eyewitness confirmed earlier reports that at least two persons had been shot dead in a shop by police officers who opened fire through the window. A total of 9 people were killed and 11 wounded in the police assault. All the armed CPN (Maoist) members had fled by the time the police entered the village. Witnesses said that the two members of the CPN (Maoist) who were killed in the incident were summarily executed after having been captured unarmed by the police. According to testimonies, the bodies of those killed were disposed of by burning without being formally identified.

30. The Special Rapporteur notes that the Home Minister visited Dungal shortly after the incident, to acquaint himself with the situation. She also acknowledges the Government's initiative in paying compensation to the families of the persons killed in the incident. However, she is deeply concerned that despite strong indications of indiscriminate use of firearms and possible extrajudicial executions by the police, no independent investigation has been initiated

into the events in the village. Moreover, in meetings with the Special Rapporteur both the Home Minister and the Inspector General of the Police maintained that all the victims in the incident were killed by the retreating Maoist rebels.

Killings of children

31. It is reported that 48 children have been killed in the conflict between the CPN (Maoist) and the police. Each year, the number continues to increase as more and more children are seen as suspected Maoists. Reports from non-governmental organizations claim that 37 children have been killed by the police and 11 by the Maoists since 1996. None of the cases attributed to the police was reportedly investigated by the competent authorities. In a list prepared by a non-governmental organization, one 11-year-old, four 12-year-old and two 13-year-old children are among the victims of killings by the police. The Special Rapporteur is dismayed that the police officers accused of these killings were not investigated, and that the Government appears not to have taken a serious view of these grave human rights violations.

B. Concerns pertaining to the CPN (Maoist)

32. The Special Rapporteur has also received reports describing serious abuses, including killings of civilians, attributed to elements of the CPN (Maoist). Since the unrest began in 1996, the CPN (Maoist) has carried out numerous attacks on police stations, public offices, schools and private homes. The primary targets of these acts of violence, harassment and threats have usually been public officials, politicians, police officers and members of civil society, including human rights activists and journalists. Among the persons who have lost their lives in this violence are a large number of activists and officials of various political parties in Nepal. Representatives of the Nepali Congress Party (NCP) told the Special Rapporteur that 85 per cent of all civilians killed by the Maoists were NCP members.

33. The Special Rapporteur has been informed of the case of Tek Bahadur Shahi, an NCP member, who was allegedly attacked by armed members of the CPN (Maoist) on 27 September 1999 in the Achham district. It is reported that the CPN (Maoist) members hacked Mr. Shahi to death and severed his head using khukuris (curved traditional knives). It appears that before he was murdered, Mr. Shahi had received threats and told to withdraw as an NCP candidate in the local elections. Members of other political parties have also lost their lives in attacks by the CPN (Maoist). Eight members of the CPN (UML) were reportedly killed by CPN (Maoist) elements at Harjung in Rolpa district on 11 March 1999. It is further reported that on 3 January 2000, members of the CPN (Maoist) summarily executed nine police officers who had been captured and taken prisoner in connection with an assault on a police station at Rurali in the Jumla district.

34. The Special Rapporteur has been informed that the CPN (Maoist) maintains links to the International Revolutionary Movement and according to sources shares many of the main ideological docurines of the Shining Path movement in Peru. Reports further suggest that the CPN (Maoist) maintains cross-border cooperation with like-minded groups in Bihar province in India. Material distributed by the CPN (Maoist) reveal a number of points which are of particular concern to the Special Rapporteur as regards the tactics and methods of armed struggle advocated by the movement. Since the beginning of their armed activities in 1996, the CPN

(Maoist) are known to have attacked the premises of international aid organizations working in the remote areas of Nepal. According to government information, 16 such attacks have occurred since 1996. Pamphlets and other material distributed by the CPN (Maoist) confirm that aid agencies have been deliberately attacked by its units. The Special Rapporteur notes that so far the Maoist guerrillas appear to be mostly armed with light and unsophisticated weapons. However, considering the ready availability of more powerful and lethal arms in the region of South Asia, the conflict has the potential to turn even more violent and destructive.

35. The Special Rapporteur is deeply disturbed by consistent reports that the CPN (Maoist) continues to recruit children to be used in armed activities. While it appears that most of the minors engaged by the movement are used as messengers or in other support activities, some children under the age of 18, at times as young as 13, are reportedly being trained in the use of firearms and also sent into combat zones. It is alarming that children are being exploited in this way for political purposes and exposed to the dangers and horrors of war. The Special Rapporteur wishes to reiterate her strong opposition to the use of children in armed conflict - an issue she has discussed in her earlier annual reports to the Commission on Human Rights (E/CN.4/1999/39 and E/CN.4/2000/3). She urges the leadership of the CPN (Maoist) to recognize the need to protect children from the violence and trauma of armed conflict as a fundamental principle of human dignity and decency. The plight of the children dragged into war and violence further underscores the urgency of bringing an end to this conflict.

36. While in Nepal, the Special Rapporteur had the opportunity to talk to a reporter who, together with other women journalists, had visited the village of Mirule in Rolpa, a remote and isolated area where tensions between the CPN (Maoist) and the police are high. Some 265 families live in the village, but all the male members have fled fearing for their lives. Many took to the jungle, others went to Kathmandu, reportedly to avoid being apprehended or killed by the police. According to the women journalists, the female population living in Mirule is squeezed by both sides of the conflict, negotiating for their lives and those of their families with armed Maoists and the patrolling police.

37. It appears that the self-declared "people's war" has attracted many women, especially among the young. Ms. Hsila Yami, a leader of the Maoists, is reported to have claimed that in the stronghold areas every third Maoist is a woman. In other places up to 10 per cent of the activists are women. Explaining their large presence, Ms. Yami claimed that "the people's war gives all of them (women) a meaningful life and a meaningful death; it allows them to prove their worth is equal to the men". The CPN (Maoist) also appears to have designed a special campaign encouraging women to join the movement. This would be a further indication that the movement draws on social and other grievances to recruit its followers. The position of women is traditionally weak and subordinate in Nepalese society, rendering the CPN programmes, with their strong emphasis on equality, attractive, both among the growing cadre of educated women and those of the disadvantaged in rural areas. In this connection, it is worth noting that in Nepalese society, women, especially the young, who leave their homes find it very difficult to return and be accepted back by their families and by society in general. The women who join the CPN (Maoist) remain strongly committed to the "people's war" and are often subservient to the demands of its leaders; it was also reported that as the movement becomes more militant, women are being increasingly marginalized at the decision-making levels of the party.

38. This matter is of special concern to the Special Rapporteur, as social realities can compel many women to choose the path of violence if they find no alternative. The Government of Nepal has taken some initial steps to resolve the situation, but these efforts need to be strengthened and expedited in order to prevent the situation from deteriorating further. The Government's "integrated security plan" must include measures to address the gender dimension of the problem, and to provide support and security for women who choose to leave the Maoist movement. Most significantly, women must be empowered at all levels so that they are not deprived of their role in political, economic and social life.

IV. DISAPPEARANCES AND UNACKNOWLEDGED DETENTION

39. Prior to the mission the Special Rapporteur received communications expressing concern for the security of a number of persons who were reported missing after having been arrested and taken away by the police. The Special Rapporteur is concerned that unacknowledged detention increases the risk of extrajudicial executions and death in custody: earlier cases of custodial deaths have given rise to fears that the disappeared may no longer be alive. While on mission, the Special Rapporteur received lists of missing persons, most of whom had been seen being taken away by the police. In some of the cases described to the Special Rapporteur, persons who had been arrested together with missing detainees had lost track of their fellow inmates after having been separated from them and moved to other jails.

40. While the Constitution of Nepal does provide for the institution of habeas corpus, this remedy has largely proved to be ineffective. Under the Constitution habeas corpus petitions may be filed with the Supreme Court in cases of disappearances. The Special Rapporteur has been informed that between 1998 and 1999, the relatives of at least 15 persons who reportedly went missing after having been arrested by the police have filed such petitions with the Supreme Court. It appears that in all of these cases the police denied any knowledge of the persons concerned, and the petitioners received no redress. There is growing frustration among members of the legal fraternity in this regard. Their petitions are often dismissed by the authorities who simply deny responsibility. In other cases, the orders of the Supreme Court are not implemented by the relevant government organs. This situation seriously undermines the authority and credibility of the courts. Judges have also become reluctant to order the authorities to produce missing persons, as they do not expect these instructions to be respected.

41. The Special Rapporteur was briefed about the case of Rajendra Dhakal, an Advocate to the Supreme Court and the Chairman of the Bar Association in Gorkha. Mr. Dhakal and two other men were reportedly arrested by police officers in Jamdi near Pokhara in Tanahun district on 8 January 1999. They were reportedly taken together to the Bel Chautara area police station. The two other men were transferred to another jail and subsequently released. However, Mr. Dhakal's whereabouts remain unknown. On 21 January 1999, a relative of Mr. Dhakal filed a writ of habeas corpus with the Supreme Court. On 23 March 1999, the Court ordered the Police Headquarters to disclose information about Mr. Dhakal, but the police denied any knowledge about the case, saying that the police were searching for him as he was wanted in connection with a murder case. On 16 November 1999, the Supreme Court ordered the Home Ministry to carry out investigations into the case of Mr. Dhakal. According to the Ministry, Mr. Dhakal has not been found in custody. At the time of writing, the habeas corpus petition on behalf of Mr. Dhakal is still pending before the Supreme Court of Nepal.

42. On 9 May 2000, the Special Rapporteur sent an urgent appeal to the Government on behalf of Laxmi Mudbari, who reportedly had disappeared after having been taken away by police officers from Morang prison, where he had been detained since his arrest on 31 January 2000. Concerns were expressed that his life could be in danger. In her communication the Special Rapporteur requested the Government to inform her of investigations carried in regard to the case of Mr. Mudbari, as well as steps taken to ensure and protect his right to life and physical integrity. At the time of writing, the Government had not responded to the Special Rapporteur's appeal.

V. IMPUNITY AND LEGAL CONCERNS

43. The cases and incidents related above illustrate the pervasive climate of impunity for human rights violations, including extrajudicial executions, which prevails in Nepal. In this connection, the Special Rapporteur wishes to underline that it is the obligation of Governments to carry out full, independent and impartial investigations into all alleged extrajudicial, summary or arbitrary executions, and to prosecute persons responsible for such abuses. Moreover, when carrying out such investigations the authorities must meet the standards set forth in relevant international instruments, particularly the International Covenant on Civil and Political Rights and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. The families and dependants of victims of extrajudicial executions are also entitled to fair and adequate compensation within a reasonable period of time.

44. Legal remedies available for victims of human rights violations remain weak. There is no permanent and independent mechanism to investigate alleged cases of extrajudicial executions by the police. Judges the Special Rapporteur spoke to seemed ill-informed about their powers, and claimed that they were not authorized to inquire into or assume jurisdiction over extrajudicial killings attributed to the police. Nor had they ever tried or inquired into such cases. The only concrete avenue open for families of missing persons or persons allegedly killed by the police is to contact the local police station and file a report. Thus, incidents of possible extrajudicial executions are investigated internally by the police, which puts the independence and transparency of the proceedings in serious doubt. The fact that many of the so-called "encounter killings" occur in remote and inaccessible places, where the bodies of those killed are disposed of on the spot without being identified, further limits the possibilities for independent inquiries. To the Special Rapporteur's knowledge none of the alleged extrajudicial executions in connection with "encounters" between the police and the CPN (Maoist) have been independently investigated. Some sources even alleged that police officers said to be responsible for extrajudicial executions had subsequently been promoted. According to government officials the Special Rapporteur spoke to, including the Home Minister, no police officer has ever been prosecuted for having carried out an extrajudicial execution.

45. In discussions with individual police officers and members of the judiciary, the Special Rapporteur also detected a growing tension between the law enforcement authorities and the judiciary. The police voiced their frustrations that suspects were, in their opinion, too often released on bail or acquitted as the courts found the evidence presented insufficient for conviction. It is alleged that in some instances this frustration has reached the level where individual police officers have taken the law into their own hands and summarily executed captured CPN (Maoist) militants, justifying their action by pointing to a perceived failure of

justice. At the same time, judges were of the opinion that the investigative work of the police was inadequate and did not produce sufficient evidence for them to be able to convict suspected criminals. The Special Rapporteur found the investigating agencies and the subordinate judiciary ineffective. They lacked the capacity to deliver proper justice to the victims and to bring the offenders to justice.

46. During the mission the Special Rapporteur heard concerns expressed at the Government's plans to strengthen the special police unit, the so-called "striking force", assigned to operate against CPN (Maoist) units. According to reports, this force is to be heavily armed and trained in counter-insurgency operations. In Kathmandu the Special Rapporteur brought these concerns to the notice of the Home Secretary and the Inspector General of the Police. The officials confirmed that special forces were being trained and equipped for this purpose, but underlined that these officers were also receiving human rights training so as to prepare them to carry out their duties in accordance with international standards. In this connection, the Special Rapporteur wishes to point out that while the police may need to be strengthened and require more modern equipment in order to carry out their tasks, such a development may have very serious consequences for human rights unless it is coupled with increased training and a strengthening of judicial and disciplinary mechanisms, to ensure that police officers are held accountable for their actions.

47. Although the 1990 Constitution largely reflects Nepal's international human rights commitments, it is clear that national legislation and the enforcement of domestic laws still need to be brought into line with these standards. The situation is particularly critical in the sphere of criminal justice and procedural law. The Government has recognized this problem, and some steps have been taken in order to address it. One of these measures, recommended by the Attorney General, is the establishment of a High-level Committee, consisting of the Attorney General, the Additional Attorney General, the Home Secretary and the Inspector General of the Police, to review the existing criminal justice system with a view to bringing it into line with the Constitution.

48. During her mission, the Special Rapporteur also had the opportunity to discuss with government representatives a number of proposed amendments to existing laws. These changes, which are presented as aiming at strengthening the position of the police in their fight against armed groups, have been heavily criticized as infringing on fundamental rights and freedoms. In September 1999, the Government presented Parliament with a bill for the amendment of some Nepalese laws relating to the internal administration. The proposed amendments to section 6 B (1) of Local Administration Act 2028 would widen the current powers of the Chief District Officers to declare areas under their jurisdiction as "riot affected" to include "areas affected by activities of violence or destruction or riot". Under the Local Administration Act, once an area is declared "riot affected", the police have the authority to arrest without warrant any "suspicious persons" and detain them under the Public Security Act. The police are also authorized to shoot on sight any person who is caught looting, destroying public property or engaging "in any other violent or subversive act".

49. The Special Rapporteur is concerned that these wide-reaching powers, coupled with vague and ambiguous formulations such as "subversive acts", could easily lead to more extensive use of firearms by the police, which in turn would increase the risk of extrajudicial

killings and executions and provide legal cover for such violations of human rights by the police. In this context the Special Rapporteur wishes to draw the Government's attention to the United Nations Basic Principles for the Use of Force and Firearms by Law Enforcement Officials. The Special Rapporteur is also concerned that the increased powers accorded to the police to arrest persons without warrants could result in more cases of unacknowledged detention, which could in turn increase the risk of custodial deaths and disappearances. At the same time, the Special Rapporteur is encouraged to note that the proposed amendments also include special penal provisions against the use of children in violent activities. The Special Rapporteur raised her concerns with regard to the bill in her discussions with government representatives in Kathmandu. They assured her that the amendments would be presented in a form that would be in line with Nepal's international human rights obligations.

50. Regarding the issue of compensation to families of victims of extrajudicial executions, the Special Rapporteur wishes to note that while it may at times be difficult to establish individual responsibility on the part of specific police officers or other State agents and to prosecute them successfully, it may still be possible to determine that a person was killed due to excessive use of force by the police or other government forces. In such cases the State should grant compensation to the concerned party. Under the Torture Compensation Act of October 1996, victims of torture and their relatives can seek compensation for their suffering and loss. However, the Special Rapporteur understands that this remedy has been largely ineffective, and that none of the cases filed under the Act so far have resulted in compensation being paid to the victims or their families. In this context, the Special Rapporteur further wishes to emphasize that paying compensation to victims and their families should in no way be seen as a substitute for investigating and prosecuting human rights violations.

VI. THE NATIONAL HUMAN RIGHTS COMMISSION

51. The bill for the establishment of the Human Rights Commission in Nepal was passed unanimously in October 1996. The Nomination Committee, consisting of the Prime Minister, the Chief Justice and the leader of the opposition, was set up to review potential candidates. In July 1999, a Division Bench of the Supreme Court of Nepal issued a writ of mandamus to enforce the Act and directed the Government to form the National Human Rights Commission.

52. The Commission was finally established in May 2000, and it is to be hoped that it will be able to begin its duties without unnecessary delay. The Special Rapporteur is concerned that under the current law the National Commission would have no jurisdiction over matters involving the armed forces, which must be seen as a serious limitation. It is further clear that in order to be effective and accessible as a recourse mechanism, the Commission would have to be represented also at the local level. The Special Rapporteur further recommends that the Commission be authorized to award compensation to victims of human rights abuses and their families in quasi-judicial proceedings.

VII. THE DEATH PENALTY

53. Nepal is the only country in South Asia which has abolished capital punishment for all crimes. The Special Rapporteur notes with appreciation that the abolition of the death penalty came about through the combined efforts of the Government, the political parties, the courts and

non-governmental organizations. The death penalty was abolished in Nepal in 1945 but reintroduced in 1962. Crimes of treason, violence against the Royal Family and "outraging" the chastity of a queen or princess were also punishable by death. Military courts were authorized to deliver death sentences for unspecified crimes.

54. Article 12 (1) of the 1990 Constitution, abolished capital punishment. However, despite this constitutional provision a number of Nepalese laws retained the death penalty. Krishna Prasad Siwakoti, a human rights activist, filed a petition with the Supreme Court to remove legal provisions allowing for the imposition of death sentences. The Attorney General resisted the petition on the grounds that the constitutional provisions did not have retroactive effect. The issue was partially resolved by a Supreme Court ruling that legal provisions which contravened the Constitution had to be removed by Parliament. Nepal formally abolished the death penalty in May 1999, when royal assent was given to two legislative bills amending the laws providing for capital punishment.

VIII. HUMAN RIGHTS DEFENDERS AND CIVIL SOCIETY

55. The confrontation between the CPN (Maoist) and the police has increased political tensions in Nepal in recent years. Continuing reports of alleged human rights abuses and violence attributed to both sides have underlined the need for independent and objective human rights investigations and reporting. The Special Rapporteur is concerned that human rights activists, lawyers, journalists, non-governmental organizations and other members of civil society find it more and more difficult to carry out their work. Representatives of civil society who spoke to the Special Rapporteur expressed concern that human rights defenders are increasingly becoming the targets of harassment, violence and threats from both members of the CPN (Maoist) and the police.

56. In addition to the disappearance of Rajendra Dhakal, discussed in section IV above, the Special Rapporteur takes particular note of the case of Bishnu Pukar Shrestha, a secondary school teacher and human rights worker, who went missing after he was taken away by men believed to be plainclothes police officers in Kathmandu on 2 September 1999. Reports suggest that Mr. Shrestha was taken to the Armed Forces Section of the Maharajgunj Police Training Centre, said to be an unofficial place of detention. Fears have been expressed that he may be subjected to torture and that his life may be at risk. The authorities deny any knowledge of his whereabouts.

IX. CONCLUSIONS AND RECOMMENDATIONS

57. Nepal's accession to the main international human rights instruments should be welcomed as a reflection of the country's commitment to overcoming present problems and protecting human rights. However, the Government will have to increase its efforts to bring domestic legislation into line with the country's international human rights commitments. The Special Rapporteur also believes that in order to bring the spirit of these principles to the hearts and minds of the people, an awareness-raising campaign for the general public will be needed. Human rights education and awareness-raising should be included in the curricula of schools and educational institutions at all levels. The Government must further train and instruct the

bureaucracy and the police to observe the principles of international human rights instruments to which Nepal is a party. Most importantly, political leaders should be encouraged to publicly support and promote human rights norms and principles.

58. Democracy in Nepal is still fragile and it is now essential to maintain momentum and safeguard the progress already achieved. The Government must be encouraged to continue the process of democratization, renew its efforts to strengthen democratic institutions and protect the fundamental principles such development depends upon. In this regard, the international community should support and assist the Government with the resources required, including funding and expertise.

59. Reports by non-governmental sources and information gathered by the Special Rapporteur during her mission indicate that extrajudicial executions have been committed by the Nepal police. Elements within the police force appear to still operate using methods which belong to the political culture of the past, in which human rights abuses were widespread and carried out with impunity. The Government is making efforts to rid the law enforcement agencies of this legacy by increased human rights and professional training. The Special Rapporteur is, nevertheless, concerned that the measures taken by the authorities to investigate and prosecute police officers accused of human rights abuses remain seriously wanting, and that the mechanisms and avenues of redress open to victims and their families are weak and inadequate. In this way, the criminal legal system extends impunity for serious human rights violations, including extrajudicial, summary or arbitrary executions, which in turn perpetuates the vicious circle of violence. The Government needs to take prompt and effective action to curb this emerging trend.

60. There is an urgent need to put in place strong, independent and credible mechanisms to investigate and prosecute alleged human rights abuses, including extrajudicial executions and disappearances, attributed to the police and other State agents. In the eyes of the general public, the independence and objectivity of investigations into extrajudicial executions attributed to the police are seriously compromised by the fact that the process of inquiry is entirely entrusted to the law-enforcement authorities themselves. Every alleged killing by the police must be promptly and thoroughly investigated by an independent body with the authority and resources to carry out this task in an effective and credible way. In this connection, the Special Rapporteur wishes to draw the Government's attention to the standards pertaining to the investigation of extrajudicial executions contained in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Paragraph 11 of these Principles refers to investigations into "cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons". In these cases, "Governments shall pursue investigations through an independent commission of inquiry or similar procedure". The same paragraph also gives guidelines regarding the composition and mandate of such commissions. In view of the concerns expressed above, the Special Rapporteur recommends that the Government study these Principles and consider the establishment of an independent commission or procedure to investigate past and present alleged extrajudicial executions attributed to the police and other State agents.

61. The Special Rapporteur recognizes the challenges facing the Nepal police, and the need to provide the law-enforcement authorities with more resources and equipment to enable them to carry out their duties. However, she is concerned that such a move may have serious human rights implications unless legal safeguards and mechanisms to prevent abuse of force and monitor the work of the police are put in place. Measures should also include human rights training aimed at raising the awareness among law enforcement officers of the fundamental principles of democratic police work. In this regard, particular attention should be paid to the standards contained in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

62. The Special Rapporteur is deeply concerned at reports suggesting that police officers have taken the law into their own hands and summarily executed suspects, under the pretext that they do not trust the judiciary to convict these persons. It appears further that the judiciary often find the investigative work of the police wanting, thus leaving judges unable to convict in cases brought before them. These weaknesses in the judiciary and the police have resulted in gross injustices and in impunity for human rights violations. There is an urgent need for professional training for the police in order to strengthen their skills as law enforcement officers, especially in the field of criminal investigation. Commanding police officers must ensure that their subordinates are instructed to use force only as a last resort. They should make it clear that all extrajudicial killings by members of the police will be investigated and the persons found guilty of such abuses punished.

63. The Special Rapporteur is concerned that hospitals and forensic experts do not have at their disposal adequate facilities to carry out post mortems, which seriously limits the possibilities to investigate alleged extrajudicial executions in a professional manner. These facilities should be upgraded as a matter of urgency in connection with initiatives aimed at strengthening the criminal justice system in Nepal, so as to allow for autopsies and other forensic examinations to be conducted in accordance with international standards, including those contained in the Principles for the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

64. It is up to the public prosecutor to decide whether to initiate proceedings against members of the police accused of extrajudicial executions. The Special Rapporteur is concerned that this may lead to arbitrary decisions depriving the victims and their families of their right to see perpetrators of human rights violations brought to justice. The relevant law needs to be amended or reformed in order to ensure that every citizen has full and unhindered access to justice.

65. Information gathered by the Special Rapporteur during her mission indicates that the courts subordinate to the Supreme Court often lack the capacity and competence to process the criminal cases brought before them, and only a few people will have the resources and clout to pursue their cases to the Supreme Court level. The obvious weaknesses of the lower levels of the judiciary are therefore a cause for serious concern. Members of the judiciary at all levels should receive support and training in order to raise their awareness of domestic and international human rights standards and to strengthen their integrity and independence as judges.

66. The Special Rapporteur was disturbed by the large number of cases of alleged disappearances brought to her attention by several sources in Nepal. She recommends that a judicial inquiry at the level of the Supreme Court be set up as a matter of priority to investigate current and past cases of disappearances.

67. Much of the political violence in Nepal has its roots in grievances caused by the enormous socio-economic problems affecting large parts of the country, especially remote areas which are difficult to reach and lack communications. The Government recognizes this, and has initiated a number of development projects in many of the most disadvantaged areas. The Special Rapporteur wishes to underline that these efforts also need to be geared towards addressing the human rights aspects of development, such as the continuing use of bonded labour, the caste system and the marginalized position of women ruled by traditional values and customs. The support for radical political schemes will undoubtedly continue if these fundamental problems are left unaddressed. The essence of development lies in empowerment, which must directly engage the people, especially in disadvantaged areas, through a participatory approach, enabling them to widen their own capacities and take charge of their lives.

68. Nepal is a country of meagre resources, and the international community has an important role to play in supporting Nepal to build further on the progress already made. The Special Rapporteur notes with appreciation that technical cooperation in the field of human rights is already under way under United Nations auspices. She encourages the Government and its development partners to ensure that the problem areas identified in the present report are adequately addressed in present and future projects. Development programmes need to be fine-tuned to address the specific political and socio-economic needs of Nepal, be geared to attracting, engaging and empowering ordinary people, and genuinely connect development to local conditions and needs by enabling and encouraging people to be more participatory and mobilized at the local grass-roots level.

69. Development projects could focus more on efforts towards forming a network of women's groups and bringing them into the mainstream of political activity. While support for women at the grass-roots level is imperative, it is also vital to place more women on decision-making posts. Strategies aimed at overcoming traditional oppressive practices should be supported by the Government and donor agencies, so that women can exercise their political, economic and social rights unhindered by such biases.

70. It is the primary duty of every State, and of the international community as a whole, to protect the right to life of children. Any violation of this right by the State itself is totally unacceptable. The Government of Nepal must investigate every single incident of children being killed and ensure that those found responsible for extrajudicial, summary or arbitrary executions are brought to justice. Such investigations should involve non-governmental organizations to ensure transparency and to inspire confidence among the families of the victims.

71. The Special Rapporteur is deeply disturbed by reports that children are being used by the CPN (Maoist) in its armed activities. She calls on the leadership of this movement to immediately bring this practice to an end, and to ensure that civilians are protected from any form of violence, threats or intimidation by members of the CPN (Maoist). At the same time, the Government should increase its efforts to address the social and economic realities that cause

children to be dragged into the conflict. The Special Rapporteur further believes that non-governmental organizations can play a constructive role in assessing the scope of and identifying possible solutions to this problem.

72. The Special Rapporteur believes that despite current tensions and the occurrence of human rights violations, there is still room for people to pursue their interests or demands while continuing their struggle against injustice and abuse by non-violent means. Resorting to violence and murder in the name of people's rights cannot be justified, especially as the current violence is threatening the security and well-being of the population as a whole.

73. The Special Rapporteur is concerned over reports that members of non-governmental organizations, lawyers, human rights workers, journalists and other representatives of civil society are increasingly becoming the targets of death threats and acts of violence. This is all the more regrettable considering the crucial role of human rights defenders in supporting democracy and the rule of law in a transitional society such as Nepal. She urges the Government to take urgent steps to ensure the security of these persons and to investigate all instances of threats or violence directed against them.

74. The Special Rapporteur regrets that a large number of Nepalese police officers have lost their lives in the line of duty. The heavy losses among the police has also added to a general feeling of insecurity and vulnerability among the general population. The Special Rapporteur notes that compensation has been given to the families of the police officers killed, which is a welcome sign that the Government is taking responsibility for persons and families struck by violence. At the same time, however, the Special Rapporteur is concerned that many families of victims of police violence have received no compensation for their suffering and loss. She urges the Government to remedy this situation without delay.

75. The Special Rapporteur urges the new Government of Nepal to refrain from using military force in countering armed opposition from the CPN (Maoist). The police and other security forces should be kept under strict civilian control, in order to ensure the transparency and accountability of these operations.

76. The Government of Nepal is encouraged to continue to seek a political settlement of the situation and to pursue the path of dialogue with the CPN (Maoist). The Special Rapporteur wishes to emphasize that any settlement of the situation should include guarantees that extrajudicial killings and other grave human rights abuses carried out in the context of the present conflict will be investigated and the persons responsible brought to justice.

77. The situation currently facing Nepal is the product of several economic, social and political factors, some of which are discussed above, and the Special Rapporteur is concerned that the situation has the potential to deteriorate further unless these root causes are promptly and adequately addressed. One of the key criterion of a functioning State is its ability and readiness to protect the rights and integrity of the citizen, and to cater for their needs in a just and equitable way. It is the same criterion that will determine the legitimacy and authority of the State and its Government in the eyes of the individual citizens.